425 Among the Kirgiz a find belongs to the finder, with its division into parts for the witnesses of the find.

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422 577 Scrupulousness with regard to objects accepted for safe-keeping (amanat) is a moral obligation, but not a juridical one, as is evident from its name: "godly amanat" (kudai amanat). Therefore objects are given for safe-keeping only to persons one knows well, or to kinsmen.

422 685 672 Objects being kept in safe-keeping are returned to the owner on his first request. The owner beats the guilty person for their fraudulent loss and sale, calling him to account, as though for robbery. The keeper is not held responsible for an accidental loss, reported immediately to the elders or authorities. The Kirgiz have /123/ the same custom. For the undeclared loss of an object which was given without witnesses, an oath is required from the defendant or the plaintiff, if they are good people. On the basis of the oath they may or may not require the return of the object and the payment of court expenses, but there is no fine or other penalty. If the object was given before witnesses, the judgment is made without the oath. If expenses were connected with the acceptance of the objects for safe-keeping, these are paid by the owner.

If the person who has accepted the object requested it himself for temporary use, he pays the expenses connected with its transfer, also for the deterioration of the object from use, and for accidental damage and loss (for example, the loss of livestock during a snowstorm).

Cargo being conveyed by drivers is also considered something entrusted for safe-keeping. The loss of the cargo by a driver who has engaged himself to deliver it to its destination is equated with premeditated robbery, i. e., the value of the cargo is returned with a fine of double the value. In case the driver was forced by necessity to transfer the cargo to another person to deliver, he is freed from the responsibility, upon presentation of a receipt from this person.

If in a fire or other general calamity (tengri kazasy) only the amanat perished and no other property, the full value of it is required to be paid. If, however, the amanat and the property of the person keeping it both perished, then the latter either pays half its value, or else pays nothing at all (Perovsk and Auliye-Ata uyezds). An agreement is made concerning the degree of responsibility for the object

674 Stealing among the Kazakhs is a rather
685 widespread crime. They steal horses, primarily. If the thief is caught there is the custom of taking the stolen animal away from him and adding to this a fine of twice its value. As the Kazakhs say - in such cases it is almost always a question of horses - ' on the neck an addition, to the tail a support ' (in Kazakh: muinena kossau, kutenia-terkiau). This punishment is
695 called 'aip' or 'aibana'. In case there are no witnesses, the oath of some outside person is needed /346/ who is known for his honesty and who knows the accused. If such a person is found and wishes to give his oath on the innocence of the accused, then the latter is definitely released from the charge. It must be said that this is a very reliable way in
[577] general of learning the truth. It costs the Kazakh nothing to lie himself, but for some reason he will not consent to take someone else's lie upon himself.

In general, the oath, as soon as it happer between Kazakhs and not to aid an infidel, that is, a Russian, has a very serious significance and is considered sacred. At the present time it is usually given with the kissing of the Koran in the presence of an honored person or mullah, but earlier, various rites were observed. For example, it was necessary to lick the fingernail, looking at the sun, or to say the oath with the muzzle of a loaded gun in the mouth. This has already gone out of use
[778] today. In important cases, however, even now, those who are to swear are invited to some holy sepulchre and it is suggested that as they say the oath they cut off the branch of a holy tree there. It is a rare Kazakh who will consent to this sacrilege if it is a false oath.

The latter only inform as to who did the crime and under what circumstances, but do not wish to be witnesses in the examination of the case. They say: "We speak behind the back, we cannot speak eye to eye" (sirtinen aytamyz, betinen aytalmaymiz), according to bii Sultan. According to Aleksandrov, custom does not approve of denunciations concerning crimes, and informers are always under suspicion in their communities, according to the proverb: "a thief has one cheek black, but an informer has two."

/191/ The testimony of witnesses is confirmed by oath, not by them but by their sides, i. e., the clan or community (Perovsk uyezd).

If there is no information and no trace of stealing and a man appears who declares that he knows the thief and takes syuyunchi from the victims, and the thief, who has not confessed, begins to be tried, the man who has received syuyunchi is obliged to furnish an oath from his relatives for the amount of the stolen property. If he does this and thereby proves the theft and forces the guilty ones to pay, the victim of the theft receives only the property stolen from him and the syuyunchi given the accuser. The fine exacted (ayb) goes to the accuser. (Bii Sagyndykov, Chimkent uyezd).

Among the Kirgiz, the witness himself does not swear an oath. His close kinsman (yanasha) takes the oath for him, even though he be a bii or a volost administrator.

If the veracity of the witness is unquestionable, i. e., if the thief was caught in the act, if they took a coat and horse from the thief, and if the witnesses are very respected persons or those who have power, then their words are believed without oath. The imposition of an oath from them is generally avoided, out of respect to persons who enjoy position in the community. When there is, nevertheless, a basis for not believing their words, an oath is required from the side of one of the litigants, as the custom is in trials without witnesses.

If the guilty parties do not confess, even when the testimony of the plaintiffs are confirmed by witnesses, an oath is imposed on them.

If a witness compromises himself by his testimony, for example, saying that he permitted the defendant to tether the stolen camels, when at the same time the defendant is denying this, the biis still do not see their partnership in stealing as proven. In such a case they either leave the defendant to swear a purificatory oath,

[156 cont.]
x 648 [663] a power over the Great Horde which he did not possess, to make himself important in the eyes of the Russian court and thus to acquire influence over the entire Kazak nation.

Empress Anna's letter patent of July 10, 1734 proves Abulkhair's deceit. First of all, this letter is presented in the name of various beys and elders and not in the name of Djulbars, who was then commander of the entire Great Horde, as is known from several documents and Rychkov's History of Orenburg. Furthermore, in the letter patent it says: "Our subject Abulkhair Khan has reported to us as a faithful subject that he has already accepted you among the ranks of our subjects, and for this purpose he has sent your deputies Aralbai and Arasgeldy-Batyr to our court." These words are founded upon Abulkhair's writings and the oral declarations made by his son, but neither the one nor the other promoted anything but falsehoods. On the one hand, it is recognized that Abulkhair, who lived a long distance from the Great Horde, could never have any influence upon it. On [636] the other hand, we see that this horde never took an oath of loyalty to Russia and was not counted among her subjects. In the third place, it must be noted that the head of the Orenburg expedition, Kirilov, who received this letter patent at the moment of his departure from Petersburg, did not even send it to its destination. It is probable that he felt this move to be ● [57] indecorous when he arrived at the border and was able to appreciate the truth of the circumstances mentioned in this document.

x 648 439 The second proposal to admit the Kazaks of the Great Horde as Russian subjects is much more probable than the first, though little more sincere. This was made in 1738, not by a man claiming to be chief of the Great Horde but by Djulbars, the true and legitimate chief of this horde. Having learned of the founding of a Russian city at the mouth of the Ori River and the opening of trade with the Kazaks of the Middle and the Little Hordes, he sent to ask for the same benefits, and to help [157] attain his end, he proposed making not only his own people Russian subjects, but also the neighboring nations, if it was

[225 cont.]

x648 [579 439] In 1753 the angry Nurali directed that the first caravan from Khiva which went to Russia or returned from there was to be pillaged. His orders were carried out. At once Kazaks of the Alimul descent line of the Karakitin tribe pillaged many Khivan and Turkomen merchants on the Sagiz, who were coming with goods under the escort of Kazaks of the same Alimul descent line but of the Chiklin tribe. Nepluev sent a civil official to the horde expressly to persuade the Khan to call the bandits to account, [662 681] deprive them of the goods, and return them to their owners. Nurali replied decisively that the pillage had taken place by his order because Sultan Batyr, not content with disobeying him, was also seeking to arouse the Middle Horde against him, and that Batyr in agreement with his son was requiring the Khiva caravans to travel only by way of his own auls. Moreover, in order to justify himself and with the aim of arousing Russia against Khiva, he wrote to Orenburg that Kaip and Barak (or Batyr) were preparing to attack the Russian border, and in that case he advised that the land of Khiva be conquered and promised to take it in a few days if he were sent the assistance of 10,000 Russian troops with artillery.

[579 577] His goal in proposing his services was easy to guess, and thus Nepluev and Tevkelev did not listen to his insinuations but repeated the demand for the return of the stolen merchandise of the robbed caravan and reproached him for conduct unbecoming to a khan. Their entreaties would have been useless if the interpreter charged with delivering them had not caused Nurali to hope, on instruction from Nepluev, that if he gave satisfaction to the [226] merchants he would gain the right to request the stipend from the government which had been assigned to him but had not been given all this time. This produced a greater effect than all the advice, and he busied himself at once with making his subjects give up the goods.

[661] Kaip, the khan of Khiva, acted quite differently. While the Russian government was causing the restitution to his subjects of what they had lost, this khan had a Russian caravan halted in Khiva, and in spite of the demands of the Orenburg authorities,